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C O N F I D E N T I A L SECTION 01 OF 04 STATE 113659

SENSITIVE
SIPDIS

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TAGS: [PARM](#) [PREL](#) [KCFE](#) [OSCE](#) [NATO](#)
SUBJECT: CFE/HLTF: GUIDANCE FOR NOVEMBER 5 HLTF

REF: (A) STATE 111008, (B) USNATO 411

Classified By: Richard A. Davis, VCI/CCA Director, for reasons 1.4(b) and (d).

¶1. (C) The main issue for discussion at the November High Level Task Force (HLTF) meeting is how, in response to Russia's continued suspension of its implementation of its CFE obligations, the U.S. and NATO Allies can change the current dynamic of the situation to resolve CFE. As the Alliance approaches the second anniversary of Russia's suspension, it is appropriate to ask whether Allies should continue to provide annual CFE data and regular (information) notifications to Russia. This was raised by the U.S. at the September 17 HLTF meeting. HLTF representatives agreed to return to this issue at the November 5 meeting.

¶2. (C) U.S. goals for the November HLTF are as follows:

- Seek Allied views on potential options for changing the current dynamic with Russia, including views on possible countermeasures such as Allies ceasing to provide CFE data to Russia.
- Seek agreement from Allies to update NATO's message on CFE in the NATO Ministerial declaration in order to clearly register our continued commitment to CFE, readiness to engage creatively to find a way forward on CFE and related issues, and define parameters on future exchanges of CFE data.

Background

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¶3. (C) The November HLTF comes at a time when Russia's continued suspension of its implementation of its CFE obligations raises the question of what steps the U.S. and NATO Allies can take to change the current dynamic.

¶4. (C) With the approaching two-year anniversary of Russia's suspension, the U.S. considers that the current situation "where NATO States Parties implement the Treaty and Russia does not" is unsustainable and that NATO should send a clear message to Russia in an effort to change the dynamic. At this meeting we want to review with Allies the options for sending such a signal. It seems to us that the message of the NAC communique should be clear, expressing both our commitment to CFE and the principles that underpin it, and our readiness

to work with Russia and others to find a solution. The
communique should also state clearly that we will
provide data to all CFE states Parties, including
Russia, this year, but that unless we see progress
regarding Russian implementation of CFE, it will be
difficult to do so again.

15. (C) Alliance unity remains our top priority. We want
to have a focused discussion of the data issue on
November 5. Allies may have other ideas on how to
change the dynamic and we want to have a full discussion
of any options they present as well. Allied views of
the way forward on the flank regime and how to resolve
issues related to Russian forces in Moldova and Georgia
would be especially welcome. Our aim is to reach
agreement on how Ministerial (NATO and OSCE) communiques
and statements should record our unified approach.

Talking points:
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16. (SBU) U.S. Del should draw from the following points
in discussions on potential options for changing the
current dynamic:

-- Allies seek to engage Russia productively in efforts
to find a solution that resolves key CFE concerns and

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enables Allies and all CFE states to move ahead with
ratification of the Adapted CFE Treaty. The U.S.
believes that it is necessary to change the dynamic to
achieve progress.

-- The U.S. is not giving up on its efforts to find a
CFE solution, and we do not believe NATO Allies should
give up, either. But we do need to signal to the
Russians that it is past time to move forward.

-- The Alliance has made clear repeatedly over the past
two years that the current situation, where NATO States
Parties implement the CFE Treaty while Russia does not,
cannot last indefinitely. We are about to face the third
instance when Russia will not provide its CFE data at
the annual exchange in December.

-- We believe it is critical to maintain a unified NATO
approach; none of us should act unilaterally on this.

-- We believe that simply continuing the current
practice is not good enough.

-- We believe Allies need to send a message that records
our dissatisfaction with the current situation in
statements at the NATO and OSCE Ministerials.

-- We propose that Allies agree to make clear in the NAC
communique that we will provide data to all CFE states
Parties, including Russia, this year, but that unless we
see progress regarding Russian implementation of CFE, it
will be difficult to continue this course.

-- We will need to make clear that whatever action NATO
agrees upon is in no way taken in anger or retaliation.
It is a simple recognition of the fact that one of the
parties is not implementing the agreement.

Legal Basis for Withholding Data (if Raised):
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-- Washington has completed a review of possible
responses to Russia's failure to observe its obligations
under the CFE Treaty and has determined that
proportional countermeasures may be legally invoked
under customary international law.

-- Any countermeasure needs to be directed at Russia and intended to induce compliance. It would also have to be proportional, reversible to the extent possible, and terminated upon Russia's cessation of its wrongful conduct.

-- A number of countermeasures are legally available, but we have determined that the most practical at this time would be to cease providing our annual CFE data to Russia.

-- The CFE Treaty would remain fully in force and no CFE obligation, including the obligation for an annual information exchange of data, would be considered to be suspended or terminated with the invocation of countermeasures.

-- The invocation of countermeasures is not dependent on a finding of material breach.

Ministerial Communiqué

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¶7. (C/REL NATO) As noted above, Washington believes we need to send a clear message to Russia on CFE, one which underscores both our unity, and our firmness. The NATO Ministerial Communiqué provides an appropriate vehicle to deliver such a message in a way that will also emphasize our continued interest in pursuing a productive approach in which all sides demonstrate flexibility to resolve key issues. U.S. Del should draw from the following points in discussions on communiqué language:

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-- We must also make clear that Allies remain firmly committed to the CFE Treaty and still seek a solution with Russia. In no way do we desire our actions to undermine the Treaty.

-- In our view the communiqué should stress four themes: 1) Allies' continued commitment to CFE and to finding a creative way forward that encompasses all key issues (that is, including issues related to Georgia and Moldova); 2) Allies' decision to continue to provide data this year; and our suggestion that if Russia is serious about working with us to find creative solutions to preserve CFE they should do the same; 3) our assessment that unless the situation regarding Russian fulfillment of CFE obligations changes, it will be difficult to provide data in the future; and 4) our readiness for an intensified effort in the new year to find solutions to preserve CFE.

-- Thus, we would propose some modifications of the CFE text used for the April 2009 NATO Summit Declaration with the aim of recording our dissatisfaction with the status quo on CFE and announcing that we seek progress. In particular, we would call upon Russia to join us in providing annual CFE Treaty data in mid-December. We have repeatedly stated over the past two years that the current situation, where NATO CFE Allies implement the Treaty while Russia does not, cannot last indefinitely. While the members of the NATO alliance will provide annual data again this year, unless Russia joins us in meeting the obligations of this regime, it will be difficult to do so again.

-- This language would also serve for use in NATO joint statements on CFE, as well as a basis for remarks in national statements, at the NATO and OSCE Ministerials.

As Needed

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¶8. (C/REL NATO) U.S.-Russian Bilaterals:

-- On October 12 U/S Tauscher and Russian D/FM Ryabkov, and their experts, including U.S. A/S Gottemoeller, met for the inaugural meeting of the U.S.-Russia Binational Commission's Arms Control and International Security Working Group. Discussions touched on an array of arms control-related issues, including CFE, START follow-on, Missile Defense and non-proliferation. During discussions on CFE, both sides summarized familiar issues and reiterated their openness to continue discussions.

-- In addition, A/S Gottemoeller and Russian Disarmament Director Antonov have had several informal discussions on the margins of their work on the START follow-on treaty. Antonov has continued to express readiness to talk about CFE, but indicated no Russian interest in moving beyond the strong conditionality that Russia has imposed on the process.

¶9. (C/REL NATO) Expanded Group: During the September HLTf, most Allies that spoke expressed limited support for an expanded group. However, they conceded that the timing may not be right to pursue this option. In subsequent U.S.-Russia bilateral discussions, Antonov has expressed a willingness to hold such a meeting, but has not pushed for a meeting this fall. As noted in September, Washington does not see value in expanding the format at this time. However, if Allies believe we should seek to arrange such a meeting, we will do so.

¶10. (C/REL NATO) NRC (ACE): As with the expanded group format, the U.S. does not see value in meeting with Russia on CFE in the NRC (ACE) format at this time. However, if Russia makes such a request and Allies deem it appropriate to hold such a meeting, the U.S. would not object, provided the meeting was well-prepared, substantive, and balanced.

¶11. (SBU) JCG Input to the OSCE Ministerial Council

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Declaration: Denmark (current Chair of the JCG) proposed a draft JCG paragraph on CFE for the OSCE Ministerial declaration (JCG.DEL/2/09). This draft seeks to propose "common denominator" language that avoids any mention of the Russian "suspension." The text is inadequate and does not address the current realities of the CFE Treaty impasse. If raised, U.S. Del should make the following points regarding the JCG Chairman's draft input:

-- It is not clear at this time whether we will want to address CFE specifically should there be an OSCE Ministerial Declaration, but if so, the U.S. believes that any language on CFE should accurately portray the current situation.

-- Considering the timing and based on prior practice, it seems prudent to first turn to the draft letter from the JCG Chair to the Ministerial Council and defer work on language for the Ministerial Declaration.

-- If/when we turn to discussion of a CFE paragraph for adoption by Ministers, it will be important for NATO to stand firm and call for an accurate description of the problems deriving from the failure of one State Party, Russia, to implement the Treaty.

¶12. (SBU) Russia VD 99 Proposal: Recently in Vienna Russia distributed to select delegations a draft proposal for a Ministerial Council Decision that would task the Forum for Security Cooperation (FSC) to conduct a review of Vienna Document 1999 (VD99) to identify areas and provisions that require updating and further development. Washington has replied separately to USOSCE

(Ref B), but U.S. Del should draw from the following to address Allied concerns if raised:

- (C/REL NATO) Washington opposes a separate decision on a review of the Vienna Document 1999, whether in the FSC or for MC consideration.
- (SBU) the UK Chair distributed a proposal for a MC Draft Decision on Issues Relevant to the FSC, which includes language that optimally addresses FSC work related to arms control and CSBMs (i.e., Vienna Document 1999): "- Explore ways in which to strengthen current arms control and CSBM instruments."
- (SBU) U.S. Del in Vienna has made clear our support for the UK Chair's draft and will continue to work with the Chair and Allied delegations to build consensus for this approach.
- (C/REL NATO) Washington is disheartened to hear that a number of Allied delegations in Vienna are voicing support for the Russian proposal as a way to encourage continued Russian interest in the Corfu process. Agreement on a decision about VD99 would not guarantee Russian acquiescence with proposals concerning the OSCE second and third dimensions - but is very likely to leave us in a situation where we cannot control the outcome and we risk losing the CSBM regime that all OSCE states applaud.

Next Meeting

¶13. (C/REL NATO) If necessary to finalize a unified NATO position on the CFE data exchange or communique language, the U.S. could support an additional HLTF meeting prior to the NATO Ministerial. In this case Washington would prefer a meeting on November 19 or 24.
CLINTON